

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas & Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.

I.12-10-013
(Filed October 25, 2012)

And related matters.

A.13-01-016
A.13-03-005
A.13-03-013
A.13-03-014

POSITION STATEMENT OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E)

Stacy Van Goor

Attorney for:
SAN DIEGO GAS & ELECTRIC COMPANY
8330 Century Park Court, CP32D
San Diego, CA 92123
Telephone: (858) 654-1534
Facsimile: (619) 699-5027
E-mail: svangoor@semprautilities.com

October 30, 2017

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In accordance with the Ruling of Assigned Commissioner and Administrative Law Judge Setting Status Conference, issued on October 10, 2017 ("October 10 Ruling"), San Diego Gas & Electric Company ("SDG&E") submits this position statement. The October 10 Ruling (at 1-2) calls on parties to "serve and file position statements addressing the preliminary issues identified [in the ruling], any additional issues to be considered, party positions, schedule, and number and location for public participation hearings...." This ruling indicates that the Commission seeks to drive these proceedings to a conclusion. SDG&E supports bringing this matter to a fair and speedy resolution. SDG&E also appreciates that the October 10 Ruling recognizes that the Commission may yet reaffirm its decision approving the Amended Settlement Agreement.

A. SDG&E's Role in This Proceeding

The October 10 Ruling states that SDG&E has a continuing "duty to monitor SCE's responses in this OII and to supplement them or challenge them based on its own obligation to ensure safe and reliable service and its obligation to the Commission under Rule 1.1." *October*

10 Ruling at 13. SDG&E intends to participate in this proceeding and to comply with Rule 1.1. SDG&E believes that the statement regarding SDG&E's role in these proceedings is overly broad, however. First, SDG&E does not believe that any of the issues to be considered in this proceeding bear at all on the provision of safe and reliable service. The point of the additional process here is to "reassess the costs allocated between ratepayers and shareholders in this proceeding." *October 10 Ruling* at 1. The allocation of costs associated with the items identified in the October 10 Ruling has nothing to do with any operational issues that affect safety or reliability. Second, although SDG&E has access to information that would allow it to review certain representations by Southern California Edison Company ("SCE"), SDG&E cannot be held responsible for the accuracy of everything SCE might submit to the Commission. To hold SDG&E accountable in such a broad sense is beyond the scope of Rule 1.1 and violates due process.

Moreover, SDG&E's role herein should be limited to providing relevant data. SDG&E did nothing to cause the reopening of this proceeding. Accordingly, SDG&E shareholders should be held harmless against any outcome in this proceeding that is financially less favorable than the Amended Settlement Agreement.

B. SDG&E's Position on the Identified Issues

The October 10 Ruling identifies two issues: the cost allocation between shareholders and ratepayers due to the Steam Generator Replacement Project failure, and the \$25 million contribution to the University of California. *See October 10 Ruling* at 9-10. SDG&E has no proposed changes to this list, with the caveat that "shareholders" should not mean *SDG&E* shareholders, for the reason set forth above.

C. SDG&E's Position on the Identified Areas

The October 10 Ruling states that the record will include judicially noticed materials, previously “filed” testimony, and the existing record in this proceeding. *October 10 Ruling* at 10. The ruling thus allows parties to supplement the record with expert testimony and briefing on eight areas: (1) base plant, (2) Replacement Steam Generator (“RSG”) costs prior to February of 2012, (3) rate of return on base plant, (4) 2012 expenses at SONGS, (5) foregone sales revenues between February 2012 and June of 2013, (6) nuclear-fuel-cancellation costs, (7) MHI¹ liability amount for the RSGs, and (8) MHI and SCE legal costs for the ICC arbitration.

The October 10 Ruling contemplates that the record is complete for purposes of reaffirming the Amended Settlement Agreement. Prior to settlement, SDG&E briefed its litigation positions on most of the eight areas identified in the October 10 Ruling. On a litigated basis, recovery is warranted in all of the first six areas.² *See Phase 1 Opening Brief of San Diego Gas & Electric Company (Phase 1 Brief)* at 4-9, I.12-10-013 (filed June 28, 2013); *see also Phase 1A Opening Brief of San Diego Gas & Electric Company (Phase 1A Brief)* at 2-11, I.12-10-013 (filed Aug. 29, 2013); *see also Phase 2 Opening Brief of San Diego Gas & Electric Company (Phase 2 Brief)* at 8-27, I.12-10-013 (filed Nov. 22, 2013). With respect to MHI costs and recoveries (areas seven and eight), SDG&E believes that ratepayers would not have been

¹ Mitsubishi Heavy Industries, Ltd., Mitsubishi Nuclear Energy Systems, Inc., and Mitsubishi Heavy Industries America, Inc. (collectively “MHI”).

² The reasonableness of nuclear-fuel-cancellation costs is currently undergoing briefing in the Nuclear Decommissioning Cost Triennial Proceeding, Application 16-03-004. The allocation of costs may be considered here.

entitled to recoveries outside of a settlement process.³

D. SDG&E's Position on Schedule

SDG&E supports the proposed schedule.

E. SDG&E's Additional Matters for Judicial Notice

The October 10 Ruling states that parties may comment on what documents warrant judicial notice. *October 10 Ruling* at 9, n.17. Rule 13.9 of the Commission's Rules of Practice and Procedure provides: "Official notice may be taken of such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 450 et seq." California Evidence Code section 452(h), in turn, states that "judicial notice may be taken of ... Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." The Office of Ratepayer Advocates ("ORA") and The Utility Reform Network ("TURN") have admitted through silence that their respective public statements about the Amended Settlement Agreement were accurate at the time they were made. These statements are admissions that have been filed in these proceedings, and may already be part of the record. Out of an abundance of caution, however, the Commission should take judicial notice of these materials. Specifically, the Commission should judicially notice: (1) ORA's 2015 press release (*Press Release, ORA, ORA Director Joe Como Response to Conduct by Southern California Edison and Former*

³ MHI costs and recoveries, including legal costs, have not been previously litigated in this proceeding. These relate to matters that were negotiated as part of the Amended Settlement Agreement. Nuclear Electric Insurance Limited ("NEIL") proceeds were also included in the Amended Settlement Agreement. NEIL is not listed in the October 10 Ruling as an area for further hearings. Also omitted from scope is the matter of whether -- and to what extent -- the settlement negotiations were actually adversely affected by SCE's *ex parte* contacts.

CPUC President Michael Peevey to Undermine the SONGS Settlement Process, April 17, 2015),⁴ and (2) TURN's public analysis of the Amended Settlement Agreement.⁵

II. CONCLUSION

SDG&E continues to support the Amended Settlement Agreement. SDG&E will continue to participate in these proceedings, and looks forward to an expeditious resolution of this matter. These proceedings are ongoing due to no fault of SDG&E. Accordingly, the Commission must ultimately find that SDG&E shareholders will be no worse off as a result of any new allocation of costs between ratepayers and shareholders.

Respectfully submitted,

/s/ Stacy Van Goor

Stacy Van Goor
Attorney for:
SAN DIEGO GAS & ELECTRIC COMPANY
8330 Century Park Court, CP32D
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Telephone: (858) 654-1534
Facsimile: (619) 699-5027
E-mail: svangoor@semprautilities.com

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⁴ This is in the record of this proceeding as Attachment 3 to A4NR's PFM.

⁵ THE UTILITY REFORM NETWORK OFFICE OF RATEPAYER ADVOCATES: *Differences between terms identified on the note and the proposed/final SONGS settlement*, available at http://www.turn.org/wp-content/uploads/2015/04/Comparison_final_April17.pdf (last accessed October 26, 2017).